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MANAGEMENT, LLC

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

AEQUITAS MANAGEMENT, LLC;
AEQUITAS HOLDINGS, LLC;
AEQUITAS COMMERCIAL FINANCE,

No. 3:16-cv-00438-PK

STIPULATION AND ORDER GRANTING
RELIEF FROM RECEIVERSHIP ORDER
TO PERMIT LIMITED PAYMENT OF
DEFENSE COSTS

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FROM RECEIVERSHIP ORDER TO PERMIT LIMITED
PAYMENT OF DEFENSE COSTS

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LLC; AEQUITAS CAPITAL
MANAGEMENT, INC.; AEQUITAS
INVESTMENT MANAGEMENT, LLC;
ROBERT J. JESENİK, BRIAN A. OLIVER;
and N. SCOTT GILLIS,

Defendants.

Individual Defendants Robert J. Jesenik, Brian A. Oliver, and N. Scott Gillis (the “Executives”) and Receivership Defendants Aequitas Management, LLC, Aequitas Holdings, LLC, Aequitas Commercial Finance, Inc., Aequitas Capital Management, Inc., and Aequitas Investment Management, LLC (collectively, “Defendants” and, together with Executives, “the Parties”), by and through their respective undersigned counsel, hereby respectfully submit the following Stipulation and (Proposed) Order Granting Relief from Receivership Order to Permit Limited Payment of Defense Costs. Plaintiff Securities and Exchange Commission takes no position regarding this stipulation.

STIPULATION

WHEREAS, an investigation was instituted against the Company and affiliated entities by the United States Securities and Exchange Commission (the “Investigation”) and the subsequently filed civil action, *SEC v. Aequitas Management, LLC, et al.*, Case No. 3:16-cv-00438-PK (D. Or.) (the “Litigation”), which names the Executives as parties in the Litigation (Dkt. No. 1);

WHEREAS, on April 14, 2016, the Court entered an Order in the Litigation (the “Receivership Order”) (Dkt. 156) that, among other things, appointed Ronald Greenspan (the “Receiver”) as the receiver for the Company and froze the assets of the Company and certain of its subsidiaries and affiliates (collectively the “Receivership Entities”);

WHEREAS, on May 12, 2016, the Executives filed a Motion for Relief from Receivership Order to allow Catlin Specialty Insurance Company (“Insurer”) to advance certain

past and future defense costs to or on behalf of the Executives and or other insured persons (Dkt. No. 176);

WHEREAS, the Parties subsequently met and conferred in an attempt to informally resolve the issues raised in the Executives' Motion;

WHEREAS, as a result of the Parties' meet and confer efforts, they stipulate as follows and request that the Court approve this stipulation:

1. Insurer issued Private Equity Management Liability Insurance Policy No. MFP-686757-0714 (the "Policy") to Aequitas Holdings, LLC (the "Company"), for the Policy Period of July 1, 2014 to July 1, 2015, subsequently extended to November 1, 2015, with limits of liability in the amount of \$5,000,000, as set forth in the Policy;
2. The Policy provides coverage for "Claim(s)," including certain Claims made by governmental entities against Insured Persons under the Policy's Insuring Agreement A, as set forth in the Policy;
3. The Investigation and Litigation constitute a "Claim" as that term is defined in the Policy;
4. The Insurer has received notice and requests for coverage under the Policy relating to the Investigation and Litigation from, *inter alia*, the Executives, who qualify as "Insured Persons" as that term is defined in the Policy;
5. The Executives have incurred and continue to incur "Loss", as that term is defined in the Policy in the form of "Defense Costs" in connection with the Investigation and the Litigation;
6. Subject to the mutual reservations of rights and pursuant to the terms and conditions of the Policy, the Insurer is willing to advance to or for the benefit of the Executives "Defense Costs" they incurred for the Investigation, and that they have and will incur for the Litigation;

7. The Company also purchased two policies of management liability insurance, that purport to follow form to the terms of the Policy, with combined limits of liability of \$10,000,000, to apply in excess of the Policy, as set forth in those two policies;

8. The Company asserts that it and many, if not all, of the Receivership Entities contend that they qualify as Insureds under the Policy and may have rights to the recovery of Loss under the Policy for existing and or future Claims brought against them;

9. The Executives assert that they may suffer substantial and irreparable harm, as they will not be able to fully and meaningfully defend the Litigation if they are prevented from exercising their rights under the Policy to recover Defense Costs; and

10. The Receiver does not oppose the relief from the stay sought by the Executives, albeit subject to appropriate conditions, which conditions are set forth in the (Proposed) Order.

IT IS SO STIPULATED this 20th day of May, 2016.

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ORDER

Good cause appearing, it is hereby ORDERED that the Receivership Order is lifted to the extent applicable, so that the Insurer shall be and is hereby authorized to make payments under the Policy to or for the benefit of the Executives for covered Defense Costs incurred in connection with the Investigation and Litigation. The Executives shall submit to the Receiver on a quarterly basis, commencing within 90 days of the entry of this Order, a report reflecting the aggregate amount of Defense Costs paid by the Insurer on behalf of the Executives during the prior quarter.

IT IS SO ORDERED.

Dated this 23rd day of May, 2016.



United States Magistrate Judge Paul Papak